

39207

SERVICE DATE – JULY 25, 2008

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35162]

Kern W. Schumacher, V&S Railway, Inc., and Louisiana & Mississippi Railway, LLC–
Control Exemption–Gloster Southern Railroad Company LLC

Kern W. Schumacher (applicant), a noncarrier, has filed a verified notice of exemption to acquire indirect control of Gloster Southern Railroad Company LLC (GLSR), which is currently wholly owned by Georgia-Pacific Wood Products LLC (GPWP). Applicant currently controls three Class III railroads: Tulare Valley Railroad Company (TVR), which operates in California; Kern Valley Railroad Company (KVR), which operates in Colorado; and V&S Railway, Inc. (V&S), which operates in Kansas and Colorado. Applicant states that he has organized Louisiana & Mississippi Railway, LLC, (L&M), in which V&S holds 100% of the membership interests, to acquire 100% of the membership interests in GLSR. As a result of the transaction, L&M will acquire direct control of GLSR, and applicant and V&S will acquire indirect control of GLSR through their control of L&M. Pursuant to 49 CFR 1180.6(a)(7)(ii), applicant has concurrently filed, under seal, a copy of the highly confidential Membership Interest Purchase Agreement between GPWP and the L&M.

The transaction is scheduled to be consummated on or after the date that this notice becomes effective (which will occur on August 10, 2008).

Applicant states that: (i) the rail lines involved in this transaction do not connect with any rail lines of the TVR, KVR, V&S or any other railroad now controlled by applicant; (ii) the acquisition of indirect control of GLSR is not part of a series of anticipated transactions that would connect any of the railroads with each other or with any railroad in their corporate family; and (iii) this transaction does not involve a Class I rail carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. See 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here, because all the carriers involved are Class III rail carriers.

If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than August 1, 2008 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35162, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Fritz R. Kahn, 1920 N Street, N.W. 8th Floor, Washington, DC 20036.

Board decisions and notices are available on our website at
“WWW.STB.DOT.GOV.”

Decided: July 16, 2008.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Anne K. Quinlan

Acting Secretary